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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,169	09/21/2000	Vipul Bansal	JP920000235US1	8125
7590	01/14/2004		EXAMINER	
MCGINN & GIBB, PLLC 2566-A RIVA ROAD SUITE 304 ANNAPOLIS, MD 21401			THOMPSON JR, FOREST	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/667,169	
	Examiner Forest Thompson Jr.	Art Unit 3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 October 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4, 6-15, 17-26 and 28-33 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4, 6-15, 17-26 and 28-33 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 21 September 2000 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

<p>1)<input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.</p>	<p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____.</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____.</p>
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**DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action (See Paper #11). The text of those sections of Title 35, U.S. Code not otherwise provided in a prior Office action will be included in this action where appropriate.
  
2. This action is responsive to amendment A filed on 10/08/2003 (see Paper #12). Applicant amended claims 1, 6, 7, 11, 12, 17, 18, 22, 23, 28, 29, and 33, and deleted claims 5, 16, and 27. Claims 1-4, 6-15, 17-26, and 28-33 are pending.
  
3. Claims 1-4, 6-15, 17-26, and 28-33 have been examined.

***Claim Rejections - 35 USC § 103***

4. Claims 1-4, 6-15, 17-26, and 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huberman (U.S. Patent No. 5,826,244), and further in view of Johnson et al. (U.S. Patent No. 6,047,274).
  
5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**NOTE:** Huberman and Johnson et al. are analogous art as defined by USPTO.

Both patents pertain to an automated electrical business practice arrangement pertaining to auctions under patent class 705. Huberman is classified in the international classification area of G06F 17/60, and in the U.S. classification areas of 705/37,26,35, and discloses a system and method to enable and facilitate networked, automated, brokered auctioning. Johnson et al. is classified in the international classification area of G06F 17/60, and in the U.S. classification areas of 705/10,400,410, and discloses an auction service (which may include brokering activities) that stimulates competition between suppliers by submitting bids in response to buyers' offers to purchase. Therefore, Huberman and Johnson et al. are considered analogous art by the examiner.

Claims 1, 12, 23: Huberman discloses:

- said agent initially receiving bidding-related information from a bidder (col. 8 line 66 – col. 9 line 6);
- said agent initially selecting a plurality of auctions to place bids in, in accordance with said bidding-related information and the current status of one or more auctions, and placing bids in said plurality of auctions (col. 9 lines 6-19); and

- said bidding-related information received from said bidder includes one or more constraints from the group consisting of specified limits on the values of bids that can be placed by said agent, without further recourse to said bidder, in various auctions (col. 10 lines 6-21).

Huberman does not specifically disclose said agent, on being outbid in an auction, itself determining, on the basis of said bidding-related information and the current status of one or more auctions, whether to place an additional bid and, if so, selecting an auction to place said additional bid in, and placing said additional bid in said selected auction. However, Johnson discloses *(Abstract) in the disclosure of A bidding moderator (Moderator) receives bids from the competing suppliers of the rate each is willing to charge to particular end users for estimated quantities of electric power or gas supply (separate auctions ). Each supplier receives competing bids from the Moderator and has the opportunity to adjust its own bids down or up, depending on whether it wants to encourage or discourage additional energy delivery commitments in a particular geographic area or to a particular customer group. Each supplier's bids can also be changed to reflect each supplier's capacity utilization.* Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosure of Huberman to specifically determine, on the basis of said bidding-related information and the current status of one or more auctions, whether to place an additional bid and, if so, selecting an auction to place said additional bid in, and placing said additional bid in said selected auction, as disclosed by Johnson et al., for the motivation of bidding in on-line auctions accessible over a communications network.

Claims 2, 13, 24: Huberman discloses one or more of the auctions in which said agent places bids are located at different online auction sites (col. 9 lines 24-53).

Claims 3, 14, 25: Huberman discloses one or more of the auctions in which said agent placed bids are scheduled to close for bidding at the same time (col. 18 lines 27-34).

Claims 4, 15, 26: Huberman discloses said auctions open for bidding at the same time (col. 18 lines 27-34).

Claims 6, 17, 28: Huberman does not specifically disclose selection of an auction for placing a bid in, whether initially or on being outbid, by said agent, is to be such that the current bidder surplus of said bid is maximized and non-negative, nor wherein said current bidder surplus of said bid comprises a monetary value computed from said bid value and said specified limit on the value of the bid. However, Huberman does disclose a *mobile customer process 210 (e.g., an intelligent agent) can be instructed to roam network 100 in search of good deals on auctioned document services that the customer needs, and accordingly to make bids on behalf of the customer up to a preauthorized spending limit* (col. 17 lines 1-5). Additionally, Official Notice is taken that the system may be configured to provide a specified measure of surplus to the system for each transaction, including maximizing the surplus, up to an upper limit of the customer's specified needs and preauthorized spending limit. This determines the profitability of the system or service provider, which (for example) service providers try

to maximize within market constraints. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosure of Huberman to specifically disclose selection of an auction for placing a bid in, whether initially or on being outbid, by said agent, is to be such that the current bidder surplus of said bid is maximized and non-negative, and wherein said current bidder surplus of said bid comprises a monetary value computed from said bid value and said specified limit on the value of the bid, as disclosed by the combination of Huberman and old and well known art, for the motivation of bidding in on-line auctions accessible over a communications network.

Claims 7, 18, 29: Huberman does not specifically disclose selection of an auction for placing a bid in, whether initially or on being outbid, by said agent, is to be such that the current bidder profitability of said bid is maximized and non-negative, nor wherein said current bidder profitability of said bid comprises the ratio of a monetary value computed from said bid value and said specified limit on the value of the bid to said bid value. However, Huberman does disclose a *mobile customer process 210* (e.g., an *intelligent agent*) *can be instructed to roam network 100 in search of good deals on auctioned document services that the customer needs, and accordingly to make bids on behalf of the customer up to a preauthorized spending limit* (col. 17 lines 1-5). Also, Official Notice is taken that the system may be configured to provide a specified measure of profitability to the system for each transaction, including maximizing the surplus, up to an upper limit of the customer's specified needs and preauthorized spending limit. This

provides a measure of and determines the profitability of the system or service provider, which (for example) service providers try to maximize within market constraints. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosure of Huberman to specifically disclose selection of an auction for placing a bid in, whether initially or on being outbid, by said agent, is to be such that the current bidder profitability of said bid is maximized and non-negative, and wherein said current bidder profitability of said bid comprises the ratio of a monetary value computed from said bid value and said specified limit on the value of the bid to said bid value, as disclosed by the combination of Huberman and old and well known art, for the motivation of bidding in on-line auctions accessible over a communications network.

Claims 8, 19, 30: Huberman does not specifically disclose said current bidder profitability of said bid is further required to be greater than a bidder-specified minimum limit. However, Huberman does disclose the winning sell bid is the bid indicating the lowest price at which any supplier has authorized provision of the document service being auctioned (col. 17 lines 31-33), which encompasses the claim language through the inference that the current bidder will maintain a desired level of profitability and include this profit in any bid submitted.

Claims 9, 20, 31: Huberman discloses:

- said auctions are ascending price auctions for selling to bidders (col. 10 lines 54-55); and
- said specified limits on the values of bids that can be placed by said agent comprise maximum allowable values (col. 4 lines 11-15).

Huberman does not specifically disclose said specified limit on the sum of values of all simultaneously outstanding bids that said agent can have at any time comprises a maximum allowable value; nor said current bidder surplus for a bid is computed by said agent by subtraction of a new computed bid value from the maximum allowable bid value specified by the bidder, for a particular auction. However, Huberman does disclose a *mobile customer process 210 (e.g., an intelligent agent) can be instructed to roam network 100 in search of good deals on auctioned document services that the customer needs, and accordingly to make bids on behalf of the customer up to a preauthorized spending limit* (col. 17 lines 1-5). Additionally, Official Notice is taken that it was old and well known in the art at the time the invention was made that limits placed on the agent affect the value and commitments placed on buyers and sellers. These limits are specified to maintain some control on the total commitments to which buyers/customers and sellers/suppliers may be obligated, and that match customer/supplier needs. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosure of Huberman to specifically said specified limit on the sum of values of all simultaneously outstanding bids that said agent can have at any time comprises a maximum allowable value; and said current

bidder surplus for a bid is computed by said agent by subtraction of a new computed bid value from the maximum allowable bid value specified by the bidder, for a particular auction, as disclosed by old and well known art, for the motivation of bidding in on-line auctions accessible over a communications network.

Claims 10, 21, 32: Huberman discloses:

- said auctions are descending price auctions for selling to bidders (col. 10 lines 54-55); and
- said specified limits on the values of bids that can be placed by said agent comprise minimum allowable values (col. 15 lines 1-17).

Huberman does not specifically disclose said current bidder surplus for a bid is computed by said agent by subtraction of a minimum allowable bid value specified by the bidder from a new computed bid value, for a particular auction. However,

Huberman does disclose:

- *a mobile customer process 210 (e.g., an intelligent agent) can be instructed to roam network 100 in search of good deals on auctioned document services that the customer needs, and accordingly to make bids on behalf of the customer up to a preauthorized spending limit (col. 17 lines 1-5); and*
- *Supplier process 220a can also specify a reservation price, which in this case is a minimum price below which the supplier will refuse to do the job (step B). Broker process 230 holds an auction (step D) much as described above, except that here, customer processes 210 bid against one another (steps E, F, G, H); bids below the*

*reservation price, if any, are eliminated (steps M,N); the winning bids are the bids for the highest prices, rather than the lowest prices (step O) (col. 15 lines 1-9).*

Additionally, Official Notice is taken that it was old and well known in the art at the time the invention was made that limits placed on the agents affect the value and commitments placed on buyers and sellers. These limits are specified to maintain some control on the total commitments to which buyers/customers and sellers/suppliers may be obligated, and that match customer/supplier needs. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosure of Huberman to specifically disclose said current bidder surplus for a bid is computed by said agent by subtraction of a minimum allowable bid value specified by the bidder from a new computed bid value, for a particular auction, as disclosed by the combination of Huberman and old and well known art, for the motivation of bidding in on-line auctions accessible over a communications network.

Claims 11, 22, 33: Huberman discloses:

- arranging offerings for auction in one or more selected groups (Abstract);
- constraining all of said auctions within the same group from said one or more selected groups to close for bidding simultaneously (col. 18 lines 27-50);
- soliciting bids in one or more of said auctions by software agents representing bidders, said software agents determining at any time, on the basis of bidding-related information input by a bidder and the current status of one or more auctions, whether to

place an additional bid and if so, selecting the auction to place the bid in and placing the bid in said selected auction (col. 10 line 62 – col. 11 line 14; col. 18 lines 27-50); and

- said bidding-related information received from said bidder includes one or more constraints from the group consisting of . . . specified limits on the values of bids that can be placed by said agent, without further recourse to said bidder, in various auctions (col. 10 lines 6-21).

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 11, 12, 22, 23, and 33 have been considered but are moot in view of the new ground(s) of rejection. Additionally, as pertains to some specific aspects of applicant's arguments, examiner responds:

**Applicant argues**, at pg. 16-18, that there is no mention about what constitutes bidding-related information.

**Examiner disagrees**. Huberman discloses the concept or subject matter of "bidding-related information" in the disclosure (at col. 10 lines 6-21) *In FIG. 3, customer process 210a generates a job request for a document service that is to be the subject of the auction (step A), specifying the particulars of the document service in appropriate detail. Customer process 210a can generate the request, for example, automatically in response to preprogrammed instructions or in response to events occurring in the marketplace, as well as in response to input received from the customer through a user interface. Optionally, customer process 210a can also specify a reservation price, that*

*is, a maximum price that the customer authorizes to be paid at auction for the requested document service (step B). Alternatively, customer process 210a can specify a reservation price during the auction itself, or not at all. Examiner maintains that a job request constitutes bidding-related information, including the included reservation price or maximum price. Additionally, the disclosure encompasses applicant's claimed feature of "without further recourse to the bidder" in the above disclosed language Customer process 210a can generate the request, for example, automatically in response to preprogrammed instructions or in response to events occurring in the marketplace, as well as in response to input received from the customer through a user interface.*

Therefore, examiner maintains the rejection.

**Applicant argues**, at pg. 18-19, that *there is no agent in the method and system disclosed in Johnson.*"

**Examiner disagrees.** Johnson et al. discloses, at col. 24 lines 1-10, *A method for creating an automated auction among energy providers and end users in which a moderating computer acting on behalf of end users collects economic incentive data from each provider of a plurality of energy providers.* Examiner asserts that the functionality disclosed by Johnson et al. provides the functionality of "an agent."

Therefore, examiner maintains the rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

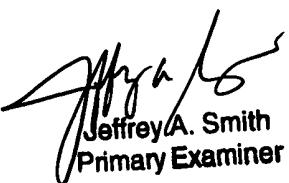
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30 AM-3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

FT   
12 January 2004



Jeffrey A. Smith  
Primary Examiner